HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Misc. Application No. 973 of 2001
(Old No. 1771 of 1987)

Vilayati Ram and four others .....Petitioners
Vs.
State of U.P. and Ranjeet Singh Rawat ....Respondents

Hon'ble Irshad Hussain, J.

Heard Sri Bhupendra Singh learned counsel for the petitioners and Sri A. Rab learned Addl. G.A. and perused the record.

By means of this petition under section 482 of the Code of Criminal Procedure (for short 'Code'), the petitioners have sought quashing of the complaint case no. 1072/1986 which had been registered at the instance of the Divisional Forest Officer, Tarai-Paschimi Forest Division, Ram Nagar. The complaint was filed for offence punishable under section 2 of the Indian Forest Act & section 4/10 of the U.P. Protection of Trees Act, 1976.

From the perusal of the said Act it is revealed that the cutting of trees of different verities has been regulated by the provisions of the Act and section 4 imposes the restriction on felling and removal of trees. The learned counsel for the petitioners drew attention to the Notification No. 86/XIV-3-377-76 dated 20.1.1982 by which the State Government has exempted application of the provisions of the act in regard to the trees mentioned in it and which were grown on individual cultivated or uncultivated holding measuring up to two hectares.

From the perusal of the complaint it is revealed that no where it was alleged that Jamun trees billets were seized while being there were transported after cutting the trees from the holding which was measuring more than two hectares. This apart the inspection report prepared by Iqbal Singh and one Forest Ranger Umed Singh Negi indicate that the Jamun trees were in fact cut away by the petitioners from their own holding. The wood was being seized only on account of the fact that this was being exported without transit permit. The incident pertain to the year 1986 whereas the abovementioned notification has been issued in the

year 1982 and therefore it was attracted to the facts of the case and the petitioners could not have been prosecuted for having cut Jamun trees which is an exempted specie in the said notification.

For the reasons aforesaid, the revision-petition succeeds and the proceedings of criminal case no. 1072 of 1986 are hereby quashed.

Dated 27.5.2004 **(Irshad Hussain, J.)**

Rawat